

# Proposition 220: Voluntary Trial Court Unification

## What is Proposition 220, and what does it do?

Prop. 220, or SCA 4 (Senate Constitutional Amendment 4), provides for the voluntary, not mandatory, unification of the *superior*<sup>1</sup> and *municipal courts* of a California county into one countywide superior court. Prop. 220 permits a majority of the superior court judges and a majority of the municipal court judges within a county to vote to create a “unified,” or single, superior court.

## What is the citizen’s role regarding Prop. 220?

The Legislature passed SCA 4 in June 1996. Because SCA 4 was a proposed constitutional amendment, the measure was required to appear on the statewide ballot and pass with a majority vote before it could take effect. In the June 2, 1998, statewide primary election, voters passed Prop. 220 by a 64 percent majority.

## What led to Prop. 220?

While Prop. 220 represents a dramatic change in California’s court system, trial court unification is not a new concept. As far back as 1906, Roscoe Pound, who later became dean of the Harvard Law School, noted that the American court system was archaic in its (1) multiplicity of courts, (2) preservation of concurrent jurisdictions, and (3) waste of judicial power. Those

observations set the stage for trial court unification in this country.

At the national level, the American Bar Association (ABA) led the move toward unification. In 1990, the ABA amended its Standards Relating to Court Organization, first adopted in 1974, which state:

The structure of the court system should be simple, consisting of a trial court and an appellate court, each having divisions and departments as needed. . . . It should have, where appropriate, specialized procedures and divisions to accommodate the various types of criminal, civil, and family matters within its jurisdiction, including court-annexed alternative dispute resolution (ADR) processes. The judicial function of the trial court should be performed by a single class of judges, assisted by legally trained judicial officers. . . . (Section 1.10, Unified Court System: General Principles.)

In California the idea of trial court unification surfaced in December 1992, when Senator Bill Lockyer introduced SCA 3. The measure would have unified all existing superior and municipal courts into a single “district” court in each county. Ultimately, SCA 3 did not receive sufficient votes in the Assembly and therefore was not placed on the November 1994 ballot.

Senator Lockyer introduced SCA 4 at the beginning of the 1995–1996 Legislative Session. Discussions with the Judicial Council of California resulted in substantial amendments to SCA 4, including an amendment to authorize the superior and municipal

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<sup>1</sup> *Italicized* terms are defined in the box on page 6.

courts of individual counties to decide locally whether to unify their courts, rather than requiring immediate unification statewide. Unlike SCA 3, SCA 4 placed control with the courts, allowing them to determine the best means of managing their own court system on the basis of local circumstances and needs.

## What are Prop. 220's major provisions?

Besides providing a local option to merge the superior and municipal courts in each county, Prop. 220:

- Establishes an *appellate division* in each unified superior court to hear matters currently within the appellate jurisdiction of the superior court;
- Requires any newly appointed judge of a unified superior court to be a member of the State Bar for at least 10 years immediately preceding appointment; and
- Provides for the countywide election of the superior court judges of the unified courts.

In addition, under Prop. 220:

- Municipal court judges become superior court judges. Municipal court judgeships would no longer exist, and current municipal court judges would become judges of the superior court; the terms that the current municipal court judges are serving would not be affected by unification;
- Municipal court employees become superior court employees. Municipal court officers, employees, facilities, records, and pending matters would become those of the unified superior court, unless otherwise provided by statute.

- The municipal court in a unified county would be abolished. The existing municipal court locations in that county become locations of one countywide

superior court. The name of the court becomes "Superior Court of California, County of \_\_\_\_\_."

- Municipal court cases would become "limited civil cases." Civil cases that were previously heard in municipal courts are now classified "limited civil cases" and generally remain subject to the procedural rules applicable to municipal courts.

## What will be the fiscal effects of Prop. 220?

Prop. 220 is expected to cause both increases and cuts in expenditures.

The California Legislative Analyst concluded that the fiscal impact of Prop. 220 would depend on the number of superior and municipal courts that choose to unify. "To the extent that most courts choose to consolidate, however, this measure would likely result in net savings to the state ranging in the millions to the tens of millions of dollars annually in the long term. The state could save money from greater efficiency and flexibility in the assignment of trial court judges, reductions in the need to create new judgeships in the future to handle increasing workload, improved management of court records, and reductions in general court administrative costs. At the same time, however, courts that choose to consolidate would result in additional state costs from increasing salaries and benefits of municipal court judges and employees to the levels of superior court judges and employees. These additional costs would partially offset the savings." (Ballot Pamphlet, analysis of Prop. 220 by the Legislative Analyst as presented to the voters, Primary Election [June 2, 1998].)

When SCA 3 was introduced, the Judicial Council commissioned a study by the National Center for State Courts (NCSC) to consider the effects of unification. The "California Unification Study," completed in February 1994, stated that "the number of variables and complex cause-effect relationships make it impossible to provide a defensible quantitative conclusion

that unification will produce a certain dollar saving or, conversely, a certain dollar increment in spending.

“It is possible, however: (1) to systematically list the areas where unification might, with good management, produce a more efficient operation; (2) to indicate some of the areas where unification may produce higher expenditures; and (3) to make an assessment of the net effect of unification in California based on experience in other states which have undergone at least partial unification.”

The NCSC report concluded that unification could both increase and lower expenditures. According to the NCSC, a single trial court in each county could also potentially yield efficiencies at the state and local levels. It looked at the experience of counties that have judicially consolidated and determined an initial efficiency factor of at least 5 percent. Applying this factor statewide, the NCSC estimated a full-time equivalent judicial position savings of 40 judges or, in cost-per-judge terms, a potential savings of \$16 million.

The NCSC also estimated a \$5.7-million increase in trial court funding costs to raise municipal court judges’ salaries to the level of superior court judges’ salaries. Fringe benefits based on a percentage of salary (for example, retirement contributions) would also rise. Minimally, this would amount to \$450,000.

The Administrative Office of the Courts estimates that if all 58 California counties vote to unify, it would cost \$6.1 million to raise municipal court judges’ salaries to the level of superior court salaries.

The NCSC cited the following possible expenditures with unification:

- If unification leads to a single trial court personnel system in each county, so that all court employees are placed in a common job classification and salary framework, the experience in other states indicates

there will probably be some upward adjustments in salaries;

- The integration of information systems, which would be essential for complete unification, will lead in some counties to initial outlays that will increase costs over the short term; and

- Facility expenditures in a unified system should decline; however, the need to relocate judges and reorganize case management systems may require outlays for renovation of judicial chambers and courtrooms, but these may be offset by closure of court operations at other facilities.

## How will Prop. 220 affect the trial courts?

The purpose of Prop. 220 is to create a single trial court in each county.

The NCSC’s “California Unification Study” concluded that this type of unification would:

- Allow the allocation of judicial officers where needed, based on what courts have experienced with *trial court coordination* and anticipated declines in court filings;

- Enable courts to establish and provide a more varied and less expensive alternative dispute resolution program;

- Provide uniformity in court rules;

- Allow a pool of available judges to address the most pressing calendar problems; promote development of a common courtwide caseflow management policy and information system; and allow attorney scheduling conflicts to be addressed. In addition, it would allow one judge to handle a case from beginning to end rather than passing it along to the next tier of judges at the superior court level, thereby making the management of criminal cases more efficient;

- Allow the integration of recordkeeping and computer systems within the county; and
- Establish a single budget for the courts within each county and a common statewide set of accounting and budget classifications.

## How will Prop. 220 affect the administration of the courts?

According to the NCSC study, court administration would experience the following with unification:

- Merging court management offices and supervisory staffs would reduce top management and create one management policymaking structure;
- One unified court management structure could lead to a single court personnel system;
- Existing court facilities could be matched to operational needs, allowing certain types of cases to be assigned to particular locations, and permitting realistic planning and financing of facilities as well as phase-out of marginal and rented facilities; and
- Court-related officials, such as the prosecutor, public defender, and sheriff or marshal, would have to cover fewer court sessions and locations if, for example, criminal cases are heard in the court near the county jail.

## How will Prop. 220 affect the diversity of judges?

Some people believe that countywide elections of judges under the terms of Prop. 220 could adversely affect California's judicial diversity because, they say, municipal court judges are elected from small districts and are more responsive to their communities.

Proponents say Prop. 220 strengthens the municipal court by treating all cases as important. In addition, courts can offer the public full services at every location.

## How will forming a single superior court affect the qualifications of judges and the quality of justice?

Some people have voiced the concern that elevating a large number of municipal court judges to the superior court would affect the quality of justice. They say that municipal courts would no longer serve as a training ground for the superior court, and that the experience of municipal court judges may not equip them to hear some of the complex matters that come before the superior court.

The NCSC found, however, that experience in municipal court does not differ dramatically from that in superior court, and that municipal court judges frequently sit by assignment on superior court matters. Moreover, all courts have the ability to cope with variations in ability, through peremptory challenges, judicial education, and the presiding judge's ability to make appropriate assignments.

## What happens now that Prop. 220 has passed?

Prop. 220 went into effect immediately, on June 3, 1998. The Judicial Council of California adopted rules and forms needed to implement the voting procedure for courts.

## How do courts vote on unification?

Courts can unify by two procedures: (1) unanimous written consent or (2) calling for a vote. The courts may choose the effective date of unification.

- Unanimous written consent. If all superior and municipal court judges in the county consent in writ-

ing to unify the courts, the courts can unify on the day of the vote or on a later date that they designate.

● **Call for a vote.** If the court calls for a vote, a longer time period is required. First, the court sends an application for a call for a vote to the Judicial Council. The Judicial Council has 14 days to process the application. After the date the vote is called, the judges have 30 days to cast their ballots. This allows for vacations, leaves of absence, and time to consider the issues. Thirty days after the call of the vote, the vote is taken—that is, the ballots are canvassed. This may be done by the county registrar of voters, who then certifies the results of the vote. Alternatively, the courts may request the Judicial Council to certify the vote. In that case, the presiding judge of each court counts the ballots and communicates the results to the Judicial Council.

## **How will Prop. 220 be implemented?**

The Legislature commissioned the California Law Revision Commission (CLRC) to review all statutes affected by Prop. 220 and to identify revisions needed to implement it. Because Prop. 220 allows voluntary unification, California statutes must provide for the operation of both unified and nonunified court systems. The implementing legislation attempts to preserve existing distinctions between superior and municipal court jurisdictions while providing for the existence of a single superior court in a county.



## DEFINITIONS

**Appellate division:** Superior courts (*see below*) hear appeals from decisions of municipal courts. All appeals, other than those in small claims cases, are heard by a three-judge panel of the appellate department of each county. Appeals also may be transferred to the Courts of Appeal, which are California's intermediate courts of review. Under the state Constitution and other laws, a decision of a superior court may be appealed to the Courts of Appeal—except in death penalty cases, which are appealed directly to the California Supreme Court. California has 6 appellate districts with 9 court sites and 18 divisions.

**Municipal courts:** Municipal courts are trial courts below the superior court level. These courts handle misdemeanor and infraction cases as well as civil matters involving claims for \$25,000 or less, including small claims cases that do not exceed \$5,000. Municipal courts also play a role in felony cases by presiding over arraignments and preliminary hearings to determine whether there is reasonable and probable cause to hold a defendant for further proceedings in superior court. As of January 1, 1998, there were 109 municipal courts in California.

**Superior courts:** California's superior courts have trial jurisdiction over all felony cases and all general civil cases involving disputes valued over \$25,000. These courts also serve as probate courts, juvenile courts, and family courts and can hear appeals of municipal court decisions. There are 58 superior courts in California, one in each county.

**Trial court coordination:** The sharing of administrative and judicial resources among the municipal and superior courts within a county for the purpose of increasing the courts' efficiency is known as trial court coordination. The Trial Court Realignment and Efficiency Act of 1991, which established trial court coordination, contained specific provisions designed to reduce the long-term costs of trial court operations, improve the uniformity of judicial services throughout the state, and increase public access to the courts.

*The Judicial Council of California, chaired by the Chief Justice, is responsible for improving the administration of justice in California. Established by the state Constitution in 1926, the council adopts rules of court and provides policy direction to the courts and recommendations to the Governor and Legislature about court practice, procedure, and administration. The council performs its constitutional and other functions with the support of its staff agency, the Administrative Office of the Courts.*